

WK:JOE
F. #2022R00309

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA

- against -

JOHN LHOTA,

Defendant.

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EASTERN DISTRICT OF NEW YORK, SS:

AFFIDAVIT AND
COMPLAINT IN
SUPPORT OF AN
APPLICATION FOR
AN ARREST WARRANT

22-MJ-408

(26 U.S.C. § 844(i))

CRAIG GUNDERSEN, being duly sworn, deposes and states that he is a Fire Marshal with the New York City Fire Department's Bureau of Fire Investigations and a Task Force Officer with the Bureau of Alcohol, Tobacco, Firearms and Explosives, duly appointed according to law and acting as such.

On or about April 3, 2022, within the Eastern District of New York and elsewhere, the defendant JOHN LHOTA did knowingly, intentionally and maliciously damage and destroy, and attempt to damage and destroy, by means of fire, a building and other real and personal property used in interstate and foreign commerce and in one or more activities affecting interstate and foreign commerce, to wit: the building housing the Rash nightclub and bar, located at 941 Willoughby Ave, Brooklyn, NY 11221, and, as a result of such conduct, did cause personal injury to one or more persons.

(Title 18, United States Code, Section 844(i))

The source of your deponent's information and the grounds for his belief are as follows:¹

1. I am a Fire Marshal with the New York City Fire Department's ("FDNY") Bureau of Fire Investigations and a Task Force Officer with the Bureau of Alcohol, Tobacco, Firearms and Explosives. I have been involved in the investigation of numerous cases involving arson and explosives. I am familiar with the facts and circumstances set forth below from my participation in the investigation referenced below; my review of the investigative file, including witness statements and security camera footage; and from reports of other law enforcement officers involved in the investigation, among other things.

2. On April 3, 2022, at approximately 9:25 p.m., FDNY responded to an explosion and fire at the multi-story building located at 941 Willoughby Ave, Brooklyn, NY 11221 (the "Building"). The first floor of the Building houses Rash, a nightclub and bar frequented by members of the LGBTQ+ community. The floors above Rash contain residential apartments.

3. Rash is used in interstate and foreign commerce and in one or more activities affecting interstate and foreign commerce. For example, Rash purchases and sells goods manufactured outside of New York State, and individuals from outside of New York State patronize Rash.

4. As pictured below, the fire, which took the FDNY approximately one hour to extinguish, severely damaged the Building. The fire also injured two victims, requiring their hospitalization.

¹ Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.



5. As described below, neighborhood and business security cameras recorded video footage of the defendant JOHN LHOTA preparing to set fire to the Building, igniting the fire in Rash nightclub and bar, and then making his escape.

Preparation for the Attack

6. At approximately 9:02 p.m. on the night of the attack, a neighborhood security camera captured LHOTA wearing light blue jeans and a grey hooded sweatshirt, and carrying a backpack, leaving the apartment building where he lived approximately one half mile from the Building.

7. At 9:10 p.m., a security camera at a nearby gas station captured LHOTA using cash to buy a red gas canister and gas. The following pictures show LHOTA walking inside the gas station carrying the red gas canister, and then at the pump to fill the canister with gas:



The Attack

8. At approximately 9:20 p.m., as pictured below, a security camera captured LHOTA walking into the Building:



9. Between approximately 9:21 and 9:24 p.m., surveillance footage from security cameras within the Rash bar and nightclub capture LHOTA systematically pouring gasoline over the floor of Rash. Specifically, the footage shows him splashing the gasoline around a passageway and an adjacent customer lounge area while a bartender and another person go about their business nearby, appearing unaware of the nature of LHOTA's actions or what would follow. The footage reveals LHOTA throwing a lit cigarette onto the gasoline and walking away. When no fire starts, the footage shows LHOTA returning to the pooled gasoline and using what appears to be a cigarette lighter to ignite it, setting off an explosion and the fire pictured below:



Escape from the Crime

10. A witness standing across the street from the Building at the time of the attack reported that after seeing a fire in the Building light up fast, he observed a male approximately 5 feet 7 inches tall and wearing a blue hooded sweatshirt and light blue jeans rushing out of the side door of the Building and running from the scene.

11. Security camera footage additionally captures LHOTA running away from the Building at approximately 9:24 p.m.

12. Security camera footage collected from multiple locations in the neighborhood track LHOTA returning to his apartment building following the attack. Notably, instead of using a direct route to cover the short distance, the footage reveals that LHOTA chose to take a far longer, circuitous route, arriving at his apartment at approximately 9:49 p.m.

LHOTA's Subsequent Arrest for Assault

13. Less than three days after the attack, on April 6, 2022 at approximately 4:00 a.m., LHOTA was arrested at his apartment building by New York City Police Department ("NYPD") officers responding to a 911 call alleging that he had assaulted a woman.


14. Only two days later, on the morning of April 8, 2022, the alleged victim of LHOTA's assault—an individual whose identity is known to me and who had lived in close proximity to LHOTA for approximately four months and observed him on a daily basis—viewed security camera footage cited above and identified the arsonist as the LHOTA.

15. I have reviewed materials related to the April 6, 2022 arrest of LHOTA, including body-worn camera footage recording LHOTA providing his name and address to officers, as well as arrest photographs. I have compared these to the extensive security camera footage of the arsonist during the approximately 45-minute period described above, and have been able to confirm that LHOTA is the person the images capture setting fire to the Building.

16. WHEREFORE, your deponent respectfully requests an arrest warrant for the defendant JOHN LHOTA so that he may be dealt with according to law.

REQUEST FOR SEALING

17. I further request that the Court order that the complaint and arrest warrant be sealed until further order of the Court. These documents discuss an ongoing criminal investigation that is not public nor known to the target of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation by allowing the target to flee, change behavior, or destroy evidence.


CRAIG GUNDERSEN
Fire Marshal
New York City Fire Department

Sworn to before me this day by electronic means
11 day of April, 2022

/s/ Roanne L. Mann

THE HONORABLE ROANNE L. MANN
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK